

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA**

**AT BECKLEY**

PHILBERT COLE,

Plaintiff,

v.

CIVIL ACTION NO. 5:20-cv-00516

UNITED STATES,

Defendant.

**ORDER**

Pending is Plaintiff Philbert Cole's *pro se* Complaint [Doc. 1], filed July 30, 2020.

This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Aboulhosn filed his PF&R on April 15, 2021. Magistrate Judge Aboulhosn recommended that the Court dismiss Mr. Cole's Complaint without prejudice for failure to prosecute and remove the matter from the docket.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*") (emphasis added). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (parties may not typically "appeal a magistrate judge's

findings that were not objected to below, as § 636(b) doesn't require de novo review absent objection."); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on May 3, 2021. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 4**], **DISMISSES** Mr. Cole's Complaint [**Doc. 1**] **WITHOUT PREJUDICE**, and **REMOVES** this matter from the docket.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTERED: May 24, 2021

   
Frank W. Volk  
United States District Judge